

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF VIRGINIA

3 RICHMOND DIVISION

4 \*\*\*\*\*  
5 DONNA K. SOUTTER, For Herself and On Behalf of All  
6 Similarly Situated Individuals,

6 Plaintiffs,

7 v.

Civil Action Number  
3:10cv107

8 EQUIFAX INFORMATION SERVICES, LLC,

9 Defendant.

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11  
12  
13 DEPOSITION OF

14 DONNA K. SOUTTER

15 September 28, 2010

16 1:00 p.m. - 3:25 p.m.

17 Richmond, Virginia

18  
19  
20  
21  
22  
23  
24 JOB NO: 33566

25 REPORTED BY: GWENDA E. APPLGATE, RPR, CRR

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1 working and started paying, so...

2 Q I understand you don't recall which of the  
3 ones you attended. Do you recall if you attended more  
4 than one?

5 A Only one, but I don't know which one.

6 Q Okay. And I take it it was not January 29 of  
7 2008; right? That was the date that the judgment was  
8 entered.

9 A That was -- I was not present for that.

10 Q So on the date, whatever hearing date you  
11 attended, that's when you met Mr. Oakes?

12 A Yes.

13 Q I've seen that name somewhere in the  
14 documents, but refresh my recollection. Who is he?

15 A He was an employee at Virginia Credit Union.  
16 You know, I think I went in September. That's when I  
17 believe.

18 Q Okay.

19 A I think. That's what I want to say.

20 Q All right. Do you recall if you received  
21 notice of a lawsuit at the time it was filed; in other  
22 words, you were served with it?

23 A You're talking about this warrant?

24 Q I am.

25 A Yes.

Page 24

1 A It was sometime in February.

2 Q Okay.

3 A It's this letter from Sandra C. Blount,  
4 February 25th. That's the first notification I had.

5 MR. BENNETT: For the record, the witness is  
6 referring to the letter that's within Exhibit 4. I  
7 think it's the third or fourth, fifth page from the  
8 end, the fifth page from the end.

9 BY MR. GOHEEN:

10 Q Okay. I was actually going to pull another  
11 document to talk about that, but we can talk about it  
12 now. So that was the, that was the first time you  
13 recall being informed of the default judgment?

14 A That's correct.

15 Q So you had not spoken with this, I guess  
16 attorney, Archie Berkley, who sent this letter to Sandra  
17 Blunt? Is that her name?

18 A Blount, B-L-O-U-N-T.

19 Q Blount. Okay.

20 A No, I hadn't. But I did speak to him after I  
21 received this letter.

22 Q After you received the letter. What did you  
23 do?

24 A Well, first I called the credit union to find  
25 out why this happened. And then Mr. Berkley, it's my

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1 Q Were you represented by counsel at any point  
2 during that proceeding?

3 A No, I was not.

4 Q Now, Mr. Oakes, he's not an attorney, or is he  
5 with --

6 A No. He's an employee of Virginia Credit  
7 Union. I don't know if he still works there or not. He  
8 is sort of in charge of their collections. And I spoke  
9 with him and told him that I was making arrangements,  
10 and then he was fine with that. And then once I went  
11 into credit counseling and they started making payments  
12 in October of '07, and I just assumed it was all  
13 handled. I didn't even know anything about the  
14 January 29th, '08 hearing until I received in the mail  
15 where a judgment had been obtained against me, when I  
16 thought that everything was just fine.

17 Q How did you become aware that the judgment had  
18 been obtained against you?

19 A In the mail.

20 Q Through a court mailing, or was it from the  
21 counsel for the credit union, do you recall?

22 A I don't remember.

23 Q Did you receive that notice of the default  
24 judgment soon after January 29 of 2008, to the best of  
25 your recollection? You don't need to look at --

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1 understanding, works for the credit union, and he  
2 contacted me and told me that they had filed paperwork  
3 with the City of Richmond court after this judgment had  
4 been obtained in error, I believe is what he said, and  
5 that this motion and this order would take care of that  
6 for me, so...

7 Q Okay. And behind that letter --

8 A Is the motion and the order.

9 Q Right. The notice of motion, there's two  
10 pages, a two-page motion there, I guess. It says that  
11 counsel for the plaintiff will appear on March 20, 2008  
12 to set aside this judgment; correct?

13 A Uh-huh.

14 Q Yes?

15 A Yes. Oh, I'm sorry.

16 Q That's okay.

17 So did you ever meet Mr. Berkley?

18 A I did not.

19 Q Did you attend the hearing on March 20?

20 A No. But they sent me information in the mail  
21 after that to verify that it had been taken care of. He  
22 told me that -- or either he or Mr. Oakes, I can't  
23 remember who, told me that there was no need for me to  
24 be present, so...

25 Q Now, you said a few minutes ago you had

7 (Pages 22 to 25)

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1 reached this agreement, if that's the right word, maybe  
2 it's not, with the debt counseling?

3 A (Indicating in the affirmative).

4 Q How did that come about?

5 A To be honest, I don't remember. I went on  
6 line because I think I saw on Oprah Winfrey, believe it  
7 or not, there was some guy on there talking about debt.  
8 And there are people that actually owe more than I do,  
9 believe it or not. They owe -- and he was telling them  
10 to get into a debt management program, which I did.

11 I enrolled in something called Take Charge.  
12 And they negotiated with the credit union and lowered  
13 the interest rate, and the payment comes directly out of  
14 my checking account every month. And that's what I did.

15 Q So this was not something that was offered  
16 directly by the credit union?

17 A No.

18 Q All right. It's something you affirmatively  
19 sought out and --

20 A Yes.

21 Q -- enrolled in; is that correct?

22 A That's correct.

23 Q But they worked with the credit union to set  
24 up the deductions from your paycheck and that sort of  
25 thing?

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1 A Uh-huh. Take Charge pulled the money out of  
2 my checking account, and then they would send the money  
3 to the credit union.

4 Q Okay. You said that began in October of '07,  
5 to the best of your recollection?

6 A Yes.

7 Q And you may have said this, but I forgot. Are  
8 you still paying on it or was it paid off?

9 A I dropped out of Take Charge because they  
10 charge \$30 a month to send a check that I could send  
11 myself. But I've paid on it. I have a ledger if you  
12 need to see it, where I've been paying on it ever since.  
13 And it's paid down considerably, so...

14 Q How much do you have left to --

15 A I think it's like \$7,500.

16 Q So you've basically knocked out about half of  
17 it; is that right?

18 A Yes.

19 Q Okay. Equifax had nothing to do with the  
20 original lawsuit having been filed against you by the  
21 credit union; right?

22 A No.

23 Q And Equifax had nothing to do with any failure  
24 on your part to pay the debt to the credit union that  
25 led to the lawsuit; right?

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1 A No.

2 Q Equifax had no involvement in the facts set  
3 forth in paragraph three of this motion; in other words,  
4 that the judgment was taken in error by someone  
5 associated with the credit union, correct?

6 That wasn't very good. Let me try that one  
7 more time. Equifax had no involvement in the fact that  
8 the judgment was taken against you --

9 MR. BENNETT: This motion (indicating).

10 MR. GOHEEN: -- right?

11 THE WITNESS: This? Talking about the  
12 warrant?

13 MR. BENNETT: The motion to set aside or to  
14 vacate.

15 THE WITNESS: No, they didn't.

16 BY MR. GOHEEN:

17 Q Okay. Since the resolution of this lawsuit,  
18 and I'm referring to the credit union suit, have you  
19 ever been sued by any entity for any reason?

20 A No.

21 Q Let's return back to your interrogatory  
22 responses. All right. The first one, on the first  
23 page, the interrogatory asks for all communications you  
24 have had with Equifax in the last five years and  
25 additional information; correct?

Page 29

1 A Yes.

2 Q Now, had you ever made a dispute with Equifax  
3 for any reason whatsoever prior to 2008?

4 A No.

5 Q How did you come to communicate with Equifax  
6 in the April, May 2008 timeframe?

7 A Mr. Berkley told me that I needed to send  
8 you-all a letter along with a copy of the motion and the  
9 order and try to get you to remove this from my credit  
10 report.

11 Q Okay. So it was the -- I think you said  
12 earlier you think he's --

13 A That's --

14 Q -- employed by the credit union?

15 A Mr. Berkley is the attorney for the credit  
16 union. And he realized that this was not supposed to  
17 happen and he was trying to help me and keep me from  
18 having to hire an attorney because I couldn't afford an  
19 attorney.

20 Q Okay.

21 MR. BENNETT: She didn't know we worked for  
22 free.

23 MR. GOHEEN: I know the feeling.

24 BY MR. GOHEEN:

25 Q All right. To your knowledge, then, was the

8 (Pages 26 to 29)

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1 Q The question asked for each and every occasion  
2 from February 26, 2008 to the present that you had been  
3 denied credit, employment or insurance based on  
4 allegedly inaccurate information contained in your  
5 Equifax consumer report. And then we asked for  
6 information kind of fleshing that out. But the response  
7 was "Discover Financial Services," right?

8 A Uh-huh.

9 Q Correct?

10 A Yes.

11 Q So you put a date of December 16, 2008;  
12 correct?

13 A Yes.

14 Q And you state "denied because of  
15 collections/charge off/or judgment"; correct?

16 A Yes.

17 Q So I take it you were applying for a Discover  
18 credit card?

19 A Yes.

20 Q For what purpose?

21 A I wanted to purchase my writer so I could go  
22 to work as a court reporter.

23 Q I'll go back to this document we were just  
24 looking at which was the Equifax response. On  
25 December 30th, 2008, right, that one?

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1 you see inquiries there at the bottom?

2 A Oh, yeah.

3 Q There's Discover which we've talked about, but  
4 also Nordstrum and a company called Stellar One;  
5 correct?

6 A That's my bank, yes.

7 Q Stellar One is your bank?

8 A Uh-huh. Yes.

9 Q For Nordstrum the inquiry was October 19,  
10 2008, for Stellar One it was August 16, 2008 --

11 A Yes.

12 Q -- right? Now, did you obtain credit from  
13 both of those entities in 2008?

14 A Yes.

15 Q So you were able to obtain credit from those  
16 two entities, even though you contend the judgment was  
17 still reporting on your credit file; is that right?

18 A Stellar One originally denied me. But once I  
19 took them a copy of the motion and the order, then they  
20 approved me.

21 Q Okay.

22 A Nordstrum approved me.

23 Q As I said, we'll go through the dispute in  
24 more detail next time around. But with -- did you --  
25 when you got the denial letter from Discover, is that

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1 A Uh-huh.

2 Q Now, that beginning on page 3 of 12 --

3 A Yes.

4 Q -- is your credit, starts your credit file;  
5 correct?

6 A Yes.

7 Q Now, for the next few pages, there are items  
8 concerning credit cards and like information; correct?

9 A Yes.

10 Q Now, can you recall as you look through those  
11 pages beginning at the bottom of page tree of 12, which  
12 of those credit cards were active in December of 2008?

13 A You want me to go through each of these  
14 individually?

15 Q Well, just the ones that were active that you  
16 were using to the best of your recollection in December  
17 of 2008. It probably won't be all of them.

18 A The Chase BP, that was my gas card. I was  
19 using that. I still have it. And it's paid in full,  
20 balance zero. The FIA had a balance of I think zero.  
21 Belk I closed I think on my own. When I left my job, I  
22 think I closed it.

23 Penney's? Gosh. J Crew, Talbots, the balance  
24 is zero. That's it.

25 Q If you go to page 7 of 12, in addition to --

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1 when you sent your second dispute to Equifax?

2 A Yes. I think that's why I did it.

3 Q After you received the judgment -- I'm sorry,  
4 received this from Equifax that deleted the judgment  
5 from your credit file, did you reapply to Discover?

6 A No.

7 Q Why not?

8 A I just figured they were going to deny me  
9 anyhow.

10 Q But other than Discover, you've not been  
11 denied credit based on an Equifax credit report since  
12 2008, to the best of your knowledge?

13 A I don't know.

14 Q Sitting here, you don't know of any other  
15 occasion where you were denied based on an Equifax  
16 credit report; is that right?

17 A That's right.

18 MR. GOHEEN: Let's mark this.

19

20 (Soutter Deposition Exhibit Number 6  
21 was marked for identification)

22

23 BY MR. GOHEEN:

24 Q This has been marked as Exhibit 6. This is a  
25 document that was produced by your counsel to us in this

10 (Pages 34 to 37)

Page 42	Page 43
<p>1 Q Why did you make -- well, strike that.</p> <p>2 Did you personally make the decision to file</p> <p>3 this case as a class action?</p> <p>4 MR. BENNETT: Answer the question however you</p> <p>5 want. Independent of any advice that I gave you,</p> <p>6 did you make a decision?</p> <p>7 BY MR. GOHEEN:</p> <p>8 Q Right.</p> <p>9 A Yes.</p> <p>10 Q For the reasons you've just stated?</p> <p>11 A To keep it from happening to someone else.</p> <p>12 Q Other than your legal counsel, did you speak</p> <p>13 with any other person about the decision to pursue this</p> <p>14 case as a class action?</p> <p>15 A No.</p> <p>16 Q As we talked about a few minutes ago, this is</p> <p>17 one of three different cases you filed against the</p> <p>18 consumer reporting agencies; right?</p> <p>19 A Yes.</p> <p>20 Q The first of those cases actually was filed</p> <p>21 against Experian; correct?</p> <p>22 A Yes.</p> <p>23 MR. GOHEEN: Let me mark this.</p> <p>24</p> <p>25</p>	<p>1 (Soutter Deposition Exhibit Number 7</p> <p>2 was marked for identification)</p> <p>3</p> <p>4 BY MR. GOHEEN:</p> <p>5 Q We marked this as Exhibit 7. Do you recognize</p> <p>6 this document to be the complaint filed on your behalf</p> <p>7 against Experian Information Solutions dated November 4,</p> <p>8 2009, in the United States District Court for the</p> <p>9 Eastern District of Virginia?</p> <p>10 A Yes.</p> <p>11 Q I take it based on what you said a few moments</p> <p>12 ago, your thought process with regard to pursuing the</p> <p>13 case against Equifax as a class action was the same with</p> <p>14 regard to Experian as a class action and TransUnion as a</p> <p>15 class action; is that fair?</p> <p>16 A Yes.</p> <p>17 Q And you understand that your complaint against</p> <p>18 Experian essentially alleged the same issues that you're</p> <p>19 alleging against Equifax; right?</p> <p>20 A Yes.</p> <p>21 Q Meaning that it arose from the erroneously</p> <p>22 filed judgment by the Virginia Credit Union and then the</p> <p>23 alleged failure by the consumer reporting agency to take</p> <p>24 it off of your credit file?</p> <p>25 A Yes.</p>
Page 44	Page 45
<p>1 MR. BENNETT: Object, I would say objection,</p> <p>2 it mischaracterized the allegations. It's</p> <p>3 Experian.</p> <p>4 MR. GOHEEN: Did I say Equifax?</p> <p>5 MR. BENNETT: No. You said that they arose</p> <p>6 from the same fact pattern.</p> <p>7 MR. GOHEEN: Oh, I see. Okay.</p> <p>8 BY MR. GOHEEN:</p> <p>9 Q And you understood at the time the case was</p> <p>10 filed that you were making class allegations against</p> <p>11 Experian?</p> <p>12 A Yes.</p> <p>13 Q Now let's look at paragraph 17 of the</p> <p>14 complaint against Experian. It's at the top of page</p> <p>15 four under the heading that says "Class Action</p> <p>16 Allegations." Do you see that?</p> <p>17 A Yes.</p> <p>18 Q That class is defined as follows, and I quote,</p> <p>19 "All consumers for whom Experian furnished a consumer</p> <p>20 report which reported a judgment in the Richmond General</p> <p>21 District Court as unpaid that was either set aside,</p> <p>22 vacated or appealed or dismissed with prejudice prior to</p> <p>23 the date of this reporting."</p> <p>24 Now, that's similar to the class definition</p> <p>25 you have in your amended complaint against Equifax;</p>	<p>1 right?</p> <p>2 A Yes.</p> <p>3 Q It's not the same but, again, it arises from</p> <p>4 the same basic set of events; right?</p> <p>5 A Yes.</p> <p>6 MR. GOHEEN: Let's mark this as the next one.</p> <p>7</p> <p>8 (Soutter Deposition Exhibit Number 8</p> <p>9 was marked for identification)</p> <p>10</p> <p>11 BY MR. GOHEEN:</p> <p>12 Q I'm going to hand you Exhibit 8. Ms. Soutter,</p> <p>13 have you ever seen Exhibit 8 before?</p> <p>14 THE WITNESS: Did you mail this?</p> <p>15 MR. BENNETT: I don't know if we did or not.</p> <p>16 If you don't recall it, just say "I don't recall</p> <p>17 it."</p> <p>18 THE WITNESS: Okay. I don't recall it.</p> <p>19 BY MR. GOHEEN:</p> <p>20 Q You understand the document to be --</p> <p>21 A I do.</p> <p>22 Q I beg your pardon?</p> <p>23 A I do understand the document.</p> <p>24 Q I wasn't finished. That wasn't my question.</p> <p>25 A Oh.</p>



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1 Q Do you understand this document to be the  
2 dismissal of your lawsuit against Experian?

3 A I do.

4 Q Why did you dismiss the lawsuit against  
5 Experian?

6 MR. BENNETT: Objection, attorney/client  
7 privileged and work product. You can give him any  
8 answers you want to give him as long as they aren't  
9 derived from information that you obtained from  
10 discussions with us. If the information you have  
11 as to why you would have dismissed Experian in this  
12 fashion are derived from us, then you should say  
13 that information was derived from conversations  
14 with my attorney.

15 THE WITNESS: Okay. That information was  
16 derived from conversations with my attorney.

17 BY MR. GOHEEN:

18 Q Did you make the decision to dismiss Experian?

19 A Yes.

20 Q Did Experian pay you money as part of the  
21 settlement?

22 MR. BENNETT: Objection. There is a  
23 settlement agreement, and that settlement agreement  
24 is confidential and protected. It's also -- the  
25 basis for the objection is beyond the scope of

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1 permissible discovery.

2 MR. GOHEEN: I don't think -- that's not going  
3 to work.

4 MR. BENNETT: It is. In fact, it's worked in  
5 a case in which --

6 MR. GOHEEN: You don't need to recite --

7 MR. BENNETT: No, City of Alexandria -- I mean  
8 the Alexandria division just recently ruled that  
9 you're not entitled to discover settlement amounts  
10 from other defendants.

11 MR. GOHEEN: Is that a class action?

12 MR. BENNETT: It's not a class action.

13 MR. GOHEEN: Well, then, that's why it doesn't  
14 apply here.

15 MR. BENNETT: Well --

16 BY MR. GOHEEN:

17 Q Were you satisfied with the terms of the  
18 settlement, Ms. Soutter?

19 A Yes.

20 Q Now, the class claim that you are asserting  
21 against Experian according to Exhibit 8 was dismissed  
22 without prejudice; right?

23 A Yes.

24 Q So you understand that to mean that the  
25 settlement was not on behalf of the entire class but

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1 only between yourself personally and Experian; correct?

2 A Yes.

3 Q So, in other words, you never filed a motion  
4 for class certification against Experian; right? You're  
5 not aware of one having ever been filed; right?

6 MR. BENNETT: Are you aware?

7 THE WITNESS: I am not aware.

8 BY MR. GOHEEN:

9 Q And to your knowledge, no class was ever  
10 certified against Experian, right, to your knowledge?

11 A I am not aware.

12 Q And that's the case -- and that was the case  
13 even though you were asserting essentially the same  
14 allegations against Experian that you are asserting  
15 against Equifax; correct?

16 A Correct.

17 Q Does it --

18 MR. BENNETT: Well, you mean class  
19 allegations.

20 MR. GOHEEN: Class allegations.

21 MR. BENNETT: You've already indicated that  
22 Experian never took it off after a dispute.

23 MR. GOHEEN: Right.

24 BY MR. GOHEEN:

25 Q So in that sense, the Experian allegations are

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1 actually more severe than against Equifax; right?

2 MR. BENNETT: Or --

3 BY MR. GOHEEN:

4 Q Equifax took the judgment off before Experian  
5 did, right, as far as you know?

6 MR. BENNETT: As far as you know. This is not  
7 a quiz. He's not --

8 BY MR. GOHEEN:

9 Q You don't have to look at counsel.

10 A I don't know the answer to the question. I  
11 mean --

12 MR. BENNETT: That's all you need to say if  
13 you don't know the answer.

14 THE WITNESS: I don't know the answer.

15 BY MR. GOHEEN:

16 Q Is it fair then to say, Ms. Soutter, that you  
17 received a sufficiently satisfactory settlement, that  
18 you felt like you did not need to pursue a class action  
19 against Experian?

20 MR. BENNETT: Objection. There is a  
21 confidential settlement agreement between Experian  
22 and my client. In addition, you're arguing with my  
23 client. She's already expressed her view.

24 BY MR. GOHEEN:

25 Q You can answer the question.

13 (Pages 46 to 49)

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1 A Repeat the question, please.

2 Q Is it fair to say -- and I'm not trying to  
3 argue with you. But is it fair to say that you received  
4 a sufficiently satisfactory settlement that you did not  
5 feel that you personally needed to pursue a class action  
6 against Experian?

7 MR. BENNETT: Objection. You're asking about  
8 the terms of this confidential settlement.

9 MR. GOHEEN: No, I'm not. I'm not either.

10 MR. BENNETT: Well, will you agree that  
11 Experian settlements which you insist on to be  
12 confidential, that you'll quit insisting on that?

13 MR. GOHEEN: No. I'm not asking her about any  
14 term of the settlement.

15 MR. BENNETT: You are.

16 MR. GOHEEN: I'm asking her if she was  
17 personally satisfied that she didn't need to file a  
18 class action motion.

19 MR. BENNETT: You're also arguing with the  
20 witness.

21 MR. GOHEEN: No, I'm not.

22 MR. BENNETT: You are. You're arguing with  
23 her that somehow she could drop the class because  
24 she received cash. That's the implication you're  
25 making.

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1 MR. GOHEEN: You said it, I didn't. I'm just  
2 asking the question.

3 MR. BENNETT: Okay. Ask her if she was bought  
4 out. Ask her.

5 MR. GOHEEN: Why? You'll object to it.

6 MR. BENNETT: Because you're asking.

7 MR. GOHEEN: I'm not asking that.

8 MR. BENNETT: You are. You're just phrasing  
9 it in a sharper way but it's the same question.

10 You are arguing with the witness. Ask her --

11 MR. GOHEEN: Arguing or not, argumentative is  
12 not a reason not to answer the question, as you  
13 know, so --

14 MR. BENNETT: No, but it is the reason -- I  
15 would not stop the deposition to seek a protective  
16 order based on that. But I am expressing my  
17 caution because -- and I suspect you don't have a  
18 lot of questions in which you'll be accusing my  
19 client, but --

20 MR. GOHEEN: I'm not accusing her of anything.  
21 I'm trying to establish class action issues, as you  
22 pointed out a few moments ago.

23 MR. BENNETT: I will step back. Ask her as  
24 you choose to ask her.

25 BY MR. GOHEEN:

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1 Q Earlier I believe you answered yes to the  
2 question, I'll make sure that I restate it properly,  
3 were you satisfied with the terms of the settlement with  
4 Experian. And you said yes.

5 A Yes.

6 Q So based on your testimony that you believed  
7 it to be a settlement with which you were satisfied, was  
8 it sufficiently satisfactory that you did not feel like  
9 you needed to file or pursue a class action against  
10 Experian any longer?

11 MR. BENNETT: If the assumptions he's making  
12 are correct, then you would tell him correct. If  
13 they're not correct, then correct his assumptions.

14 THE WITNESS: Correct.

15 BY MR. GOHEEN:

16 Q Would you similarly be open to the idea of  
17 obtaining a satisfactory individual settlement with  
18 Equifax in lieu of pursuing a class action against  
19 Equifax?

20 MR. BENNETT: Objection, work product and --

21 MR. GOHEEN: I'm asking her. I'm not asking  
22 you.

23 MR. BENNETT: You're not -- if you're trying  
24 to make a buyout offer to my client, it's not going  
25 to be in the deposition.

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1 MR. GOHEEN: I'm not trying to do anything.  
2 I'm asking a question. And it doesn't have  
3 anything to do with any work product or privilege.  
4 I'm asking her personally, is she open or isn't  
5 she. Either she is or she's not.

6 MR. BENNETT: Whether she would sell the class  
7 out for personal gain, is that what you're asking  
8 her? Why don't you ask her, would you sell the  
9 class out for personal gain?

10 MR. GOHEEN: No, I'm not asking her that.  
11 Repeat the question.

12  
13 (Whereupon the following question was read by  
14 the court reporter: "Would you similarly be open to  
15 the idea of obtaining a satisfactory individual  
16 settlement with Equifax in lieu of pursuing a class  
17 action against Equifax?")

18  
19 THE WITNESS: No.

20 BY MR. GOHEEN:

21 Q Okay. Why not?

22 A Because I do sincerely believe that there are  
23 other folks out there that have been through probably  
24 more severe problems in their lives than I have because  
25 of negative reporting that wasn't removed from their

14 (Pages 50 to 53)

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1 credit histories.  
 2 Q Okay. So you're not open to that idea even  
 3 though you made the same allegations roughly against  
 4 Equifax and Experian?  
 5 A Yes.  
 6 Q That's right?  
 7 A That's correct.  
 8 Q And you understand you filed a similar  
 9 complaint against TransUnion; right?  
 10 A Yes.  
 11 Q And you understand that asserts class  
 12 allegations as well; correct?  
 13 A Yes.  
 14 Q And as with the other two being Equifax and  
 15 Experian, they arise out of the same basic allegations;  
 16 correct?  
 17 A Yes.  
 18 Q The same basic facts, I mean; right?  
 19 A Yes.  
 20 Q Are you able to distinguish between and among  
 21 your experiences with the three consumer reporting  
 22 agencies with regard to removing the judgment from your  
 23 credit file?  
 24 A No.  
 25 Q Why not?

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1 facts that would lead you to believe that what Equifax  
 2 did with regard to the judgment is any better or worse  
 3 than what Experian did with regard to removing the  
 4 judgment?  
 5 A No.  
 6 Q What about with TransUnion versus Equifax,  
 7 same answer?  
 8 A No.  
 9 Q So the same answer, which is no; is that  
 10 right?  
 11 A Yes, same answer.  
 12 Q Now let's look at page six of the amended  
 13 complaint, paragraph 24. Now, do you agree with me that  
 14 paragraph 24 sets forth the class definition that you  
 15 were proposing at the time the amended complaint was  
 16 filed?  
 17 A Yes.  
 18 Q I want to read that definition. "All  
 19 consumers, A, who Equifax credit files show had a  
 20 primary address in Virginia as of February 17, 2010, B,  
 21 about whom Equifax furnished a consumer report to a  
 22 third party that show a civil judgment in the General  
 23 District Court for the City of Richmond at any time on  
 24 or after February 17, 2008, and C, where on such date  
 25 the report was furnished the records of the General

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1 A I am not.  
 2 Q Why not?  
 3 A I don't have an answer for that question. I  
 4 don't know. I guess I should be able to if I could --  
 5 MR. BENNETT: If you had your documents in  
 6 front of you?  
 7 THE WITNESS: Maybe.  
 8 BY MR. GOHEEN:  
 9 Q Let me ask this. Were there occasions where  
 10 you were denied credit by a company or organization  
 11 based strictly on information that appeared in a  
 12 TransUnion credit file?  
 13 A Yes.  
 14 Q Just as we talked about that occurred strictly  
 15 with Experian and, on one occasion, strictly with  
 16 Equifax; right?  
 17 A Yes.  
 18 Q But you don't distinguish those events,  
 19 just --  
 20 A Yes.  
 21 Q -- in terms of culpability?  
 22 A Not really.  
 23 Q Let's go back to the amended complaint for a  
 24 moment. By the way, back on the Experian thing again,  
 25 do you have any, sitting here today, do you have any

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1 District Court for the City of Richmond showed that the  
 2 judgment had been satisfied, appealed, vacated or  
 3 otherwise set aside."  
 4 Did I read that correctly?  
 5 A Yes.  
 6 Q Now, you did not have a judgment that was  
 7 satisfied; correct?  
 8 A Correct.  
 9 Q And you did not have a judgment that was  
 10 appealed; right?  
 11 A Correct.  
 12 Q Now, looking at subsection B, where you state  
 13 as part of the class definition about whom Equifax  
 14 furnished a consumer report to a third party that showed  
 15 a civil judgment in the General District Court for the  
 16 City of Richmond at any time on or after February 17,  
 17 2008, do you know sitting here today how many parties to  
 18 whom Equifax furnished your consumer report that showed  
 19 the judgment at any time on or after February 17, 2008?  
 20 A I do not know.  
 21 Q Go back to the interrogatory responses for  
 22 just a moment.  
 23 A Okay.  
 24 Q Look at number 15, if you could, interrogatory  
 25 number 15. Do you see that?



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1 correct that. She's not seeking individual damages  
2 based on the class -- she doesn't have any  
3 individual claims. She's not seeking individual  
4 damages.

5 MR. GOHEEN: Okay. So when we come back for  
6 phase two and I ask the same question, it will be  
7 the same answer?

8 MR. BENNETT: Yes.

9 MR. GOHEEN: She's not seeking any actual  
10 damages or individual damages at all?

11 MR. BENNETT: She's seeking statutory damages  
12 and punitive damages.

13 MR. GOHEEN: Okay. All right. And that's the  
14 same for her individual claim?

15 MR. BENNETT: She doesn't have an individual  
16 claim.

17 MR. GOHEEN: Okay. Well, she has an  
18 individual claim but as a class rep. But you're  
19 saying there's not a separate individual claim.

20 MR. BENNETT: Right. If you look at the class  
21 complaint, we've, we, under the count, we note it  
22 as class claim versus individual. So if you look  
23 at the first amended complaint, count one says  
24 class action complaint. Count two for Tony Webb  
25 says class action complaint. And then count three

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1 says individual claim for Tony Webb.

2 MR. GOHEEN: Okay.

3 MR. BENNETT: That was different than with  
4 Experian. With Experian there is an individual  
5 claim.

6 MR. GOHEEN: Right.

7 MR. BENNETT: There was not an individual  
8 claim with you-all because you took it out in the  
9 reinvestigation.

10 MR. GOHEEN: Are you going to update your  
11 disclosures now that Webb has been severed off  
12 those to make this clear for the record?

13 MR. BENNETT: Sure.

14 MR. GOHEEN: I think that -- I would suggest  
15 that might be desirable.

16 MR. BENNETT: Sure.

17 BY MR. GOHEEN:

18 Q All right. Well, that's helpful. So in other  
19 words -- you understand kind of that back and forth,  
20 Ms. Soutter?

21 A I do.

22 Q All right. You're not, as I understand what  
23 Mr. Bennett has said, you're not seeking any actual  
24 damages individually --

25 A Yes.

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1 Q -- for anything that you believe Equifax may  
2 have done, it's only what you understand to be the  
3 statutory damage?

4 A That's correct.

5 Q Which is similar, as I'm sure you understand  
6 by now, between a hundred and a thousand dollars per  
7 violation?

8 A Uh-huh.

9 Q Right? Correct?

10 A Yes.

11 Q And which is also being sought on behalf of  
12 each member of the proposed class; right?

13 A Yes.

14 MR. BENNETT: And punitive damages, we're also  
15 seeking punitive damages.

16 MR. GOHEEN: Right.

17 BY MR. GOHEEN:

18 Q And so then I take it that you did not sustain  
19 any actual damages from Equifax; correct?

20 MR. BENNETT: Objection. If you know the  
21 terms of actual damages or what it means  
22 independent of my advice --

23 BY MR. GOHEEN:

24 Q Well, let's go down these disclosures then.

25 A I'm reading them. I understand them, mental

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1 anguish, emotional anguish, general economic damages.  
2 It prevented me from moving forward with my purchase of  
3 my writer so I could move forward with a more profitable  
4 career rather than working at the hospital as needed. I  
5 was also embarrassed by this. It's embarrassing to have  
6 these things show up on your credit history. So -- and  
7 I eventually --

8 MR. BENNETT: The question he's asking is  
9 whether you believe you have actual --

10 THE WITNESS: I do.

11 MR. BENNETT: -- cognizable damages with  
12 respect to Equifax.

13 THE WITNESS: Yes.

14 BY MR. GOHEEN:

15 Q You understand you're not asserting them?

16 MR. BENNETT: You understand you're not  
17 asserting actual damage claims against Equifax?

18 THE WITNESS: Yes.

19 BY MR. GOHEEN:

20 Q And once this case is adjudicated, however  
21 it's adjudicated, you're never going to be able to  
22 assert them?

23 A That's correct. I'm --

24 MR. BENNETT: Well, objection, you're giving  
25 her legal advice that is contrary to what the

18 (Pages 66 to 69)

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1 fourth circuit has recently ruled in the Weis  
2 Markets case.

3 MR. GOHEEN: That's -- well, that's fine. I  
4 hear what you're saying. But I get the objections.  
5 BY MR. GOHEEN:

6 Q Put it this way. You understand that you are  
7 not seeking them in this case?

8 A That's right.

9 Q And the position would be from Equifax is that  
10 you could not ever seek them against once this case is  
11 adjudicated.

12 A Yes, I understand that.

13 Q Okay. And you understand that that will be  
14 the case, the position taken with regard to every other  
15 member of the class that you're proposing to represent;  
16 correct?

17 A Yes.

18 (Discussion off the record)  
19

20 BY MR. GOHEEN:

21 Q Back to the disclosures, you said you were  
22 looking through each of these. I'm not going to go  
23 through them based on what your counsel just said, but  
24 I'm going to ask you generally. Do you think you, for  
25

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1 A Yes.

2 Q I take it, then, that you believe you have  
3 sustained damage to your credit score as a result of  
4 what Equifax allegedly did in this case?

5 A Yes.

6 Q All right. Do you know that you have  
7 sustained damage to your credit score as a result of  
8 what you contend Equifax did in this case?

9 A Yes.

10 Q All right. How do you know?

11 A I know because when I have applied for credit,  
12 I've been denied based on the low FICA score or  
13 whatever.

14 Q Well, have you ever obtained your credit score  
15 from Equifax at any point in time?

16 A No.

17 Q Prior to the erroneous judgment that was put  
18 in the court file by the credit union, do you know what  
19 your credit score was?

20 A It was very high. It was at least 750. It  
21 was high.

22 Q And when did you obtain that score?

23 A I don't know. I don't know the answer. But  
24 it was very high.

25 Q Well, do you recall, was it within the year

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1 all seven of those subcategories, you believe you have  
2 some level of actual damage?

3 A Yes.

4 Q All right. Now I want to go to the complaint,  
5 back to the complaint for a minute, the amended  
6 complaint. Look at paragraph 26.

7 MR. GOHEEN: This is off the record.

8 (Discussion off the record)  
9

10 BY MR. GOHEEN:

11 Q All right. Back on the record, paragraph 26  
12 states "As a result of the conduct, actions and  
13 inactions of the defendant as alleged in this count, the  
14 plaintiff and other class members suffered credit score  
15 damage." Do you know what the term credit score damage  
16 means?

17 A I'm assuming that means their credit score is  
18 low.

19 Q Or lower?

20 A Lower, yes.

21 Q All right. So this allegation as I understand  
22 it is asserting that you and the other members of the  
23 proposed class sustained damage to their credit score as  
24 a result of what Equifax allegedly did in this case?  
25

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1 before the lawsuit, or had it been five years before?  
2 Do you roughly know the timeframe as to when you  
3 obtained that credit score?

4 A I had it up until this judgment appeared. So  
5 other than that, no.

6 Q How often had you obtained your credit score  
7 from any source prior to the credit union case?

8 A Only when I went to apply for credit.

9 Q So you would obtain your credit score when you  
10 would apply for credit?

11 A I don't know that I would obtain my credit  
12 score when I applied for credit. I knew that my credit  
13 was good. So no, not credit score but --

14 Q Right. I'm focusing on that term credit score  
15 damage. That's why I'm asking the questions  
16 specifically to credit score.

17 A Then I don't know the answer. I don't know  
18 how often I obtained my credit score. But I knew it was  
19 high. Even when I went to apply for credit, the  
20 creditors would tell me that I had very good credit, my  
21 score was high. And that was it.

22 Q This is prior to the judgment?

23 A Correct.

24 Q How often, if at all, have you obtained your  
25 credit score since the judgment?

19 (Pages 70 to 73)

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1 A Probably three or four times.  
 2 Q And what have those scores been?  
 3 A Like 620. I think once it was up to 650, I  
 4 think, which is low.  
 5 Q And under what circumstances had you obtained  
 6 or have you been obtaining these credit scores, just as  
 7 trying to obtain credit or for some other purpose?  
 8 A To purchase my writer so I could get my court  
 9 reporting career started.  
 10 Q Did you ultimately obtain that equipment?  
 11 A I did.  
 12 Q When?  
 13 A About eight months ago maybe. Not long.  
 14 Q And you obtained it on credit --  
 15 A No.  
 16 Q -- or installment payment? How did you obtain  
 17 it?  
 18 A My firm owner purchased it for me and I am  
 19 reimbursing her.  
 20 Q So eight months ago --  
 21 A I don't know if it's been that long. It's  
 22 close to that, though.  
 23 Q So it's not -- well, sometime in 2010, do you  
 24 believe?  
 25 A Yes.

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1 equipment.  
 2 Q Do you know what is considered a good credit  
 3 score?  
 4 A I would say 700.  
 5 Q Do you know what's considered a fair credit  
 6 score?  
 7 A I'm just going to guess and say 650.  
 8 Q Now, do you know -- you said earlier that the  
 9 last couple times you've gotten your credit score, it  
 10 was somewhere from 628 to 650, I believe?  
 11 A Yes.  
 12 Q That's been without the judgment reporting,  
 13 right, as far as you know?  
 14 A The last time that I received it, the judgment  
 15 was still showing. And that was with Experian and she  
 16 said it was 650, so...  
 17 Q When was that?  
 18 A I don't know the date.  
 19 Q Going back to the term credit score damage, is  
 20 any reduction in the credit score considered in your  
 21 mind damage to a credit score if it results from the  
 22 judgment having been on someone's credit file? It goes  
 23 from 650 to 649.  
 24 If it were, if it were 650 without the  
 25 judgment, 649 with the judgment, you believe that's

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1 Q As of 2010 the judgment was off your credit  
 2 file for all three consumer reporting agencies, to the  
 3 best of your knowledge?  
 4 A I don't know the answer. I don't know.  
 5 Q Did you make multiple efforts to obtain that  
 6 equipment?  
 7 A Yes.  
 8 Q You mentioned the one time. How many times  
 9 did you try?  
 10 A Three.  
 11 Q But none of those -- scratch that.  
 12 To the best of your knowledge, did any of  
 13 those denials or rejections result from Equifax?  
 14 A Yes.  
 15 Q Which one?  
 16 A Discover.  
 17 Q Okay. Other than that -- you're right. You  
 18 said that already. Other than that one?  
 19 A I don't think so. I don't know.  
 20 Q You had made the decision, then, to enter in  
 21 the court reporting business at least in the fall of  
 22 2008?  
 23 A I was finished school then and I was -- I  
 24 needed to upgrade my equipment so that I had  
 25 professional grade equipment rather than student grade

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1 credit score damage?  
 2 A Yes.  
 3 Q So your assertion is that every member of the  
 4 class had some sort of credit score damage; right?  
 5 A Yes.  
 6 Q On the other hand, if it were 650 with the  
 7 judgment on it and 650 without it, that would not be  
 8 credit score damage, you believe?  
 9 A From a judge -- if it's -- if the judgment  
 10 didn't appear and it was 650 -- well, if you're  
 11 referring to me, my credit score was above 700 before  
 12 the judgment appeared. So no, I -- no.  
 13 Q I'm not referring to you.  
 14 MR. GOHEEN: Could you ask the question again,  
 15 please.  
 16  
 17 (Whereupon, the following question was read by  
 18 the court reporter: "On the other hand, if it were  
 19 650 with the judgment on it and 650 without it,  
 20 that would not be credit score damage, you  
 21 believe?"")  
 22  
 23 THE WITNESS: That just doesn't make sense to  
 24 me, but anyway...  
 25 MR. BENNETT: Just tell him that.

20 (Pages 74 to 77)